

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

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Order Instituting Rulemaking Regarding the Implementation of the Suspension of Direct Access Pursuant to Assembly Bill 1X and Decision 01-09-060

Rulemaking 02-01-011
(January 9, 2002)

**COMMENTS OF THE
CALIFORNIA MUNICIPAL UTILITIES ASSOCIATION
ON THE PROPOSED DECISION OF
ADMINISTRATIVE LAW JUDGE PULSIFER
IN RESPONSE TO PACIFIC GAS AND ELECTRIC COMPANY'S
PETITION TO MODIFY D.06-07-030**

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April 19, 2007

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OF THE STATE OF CALIFORNIA**

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In accordance with the notice provided by the Chief Administrative Law Judge, dated March 30, 2007, and pursuant to the Rules of Practice and Procedure of the Public Utilities Commission of the State of California ("Commission"), the California Municipal Utilities Association ("CMUA") hereby provides these comments on the proposed decision of Administrative Law Judge ("ALJ") Pulsifer ("Proposed Decision").

The Proposed Decision addresses a petition filed by Pacific Gas and Electric Company ("PG&E") to modify D.06-07-030. PG&E's petition raises two issues: (1) whether PG&E can use the 2.7 cents per kWh Cost Responsibility Surcharge ("CRS") cap to determine the Department of Water Resources ("DWR") Power Charge on a "residual" basis, irrespective of "actual" DWR Power Charge liabilities and (2) whether the investor-owned utilities are required to net "negative" indifference amounts against "positive" indifference amounts.

With respect to the first issue, the Proposed Decision rightly holds that "D.06-07-030 provides no basis for PG&E to overcollect DWR Power Charges from MDL, or any other departing load customers covering the period up to June 30, 2006, by applying a 2.7 cents/kWh cap on a

residual basis, with no provision for true up.”¹ Accordingly, the Proposed Decision notes that “[t]o the extent that the CRS undercollection for a particular non-bundled customer category had *not* been paid down to zero as of June 30, 2006, a further true up [of] CRS revenues *would* be necessary in order to avoid cost shifting.”² The Proposed Decision correctly affirms that “[t]he appropriate basis for a true-up of such DWR Power Charges is the Total Portfolio Indifference methodology.”³ CMUA supports the treatment of this issue in the Proposed Decision, and agrees that a true-up is necessary for certain departing load customers, including any municipal departing load customer that is not exempt from the DWR Power Charge.⁴

With respect to the second issue, the Proposed Decision responds to PG&E’s petition as follows:

"We reject PG&E’s proposed modification of OPs 8 and 9 regarding its interpretation of Commission’s intent as to the provisions for carrying forward of negative indifference amounts into future years. We agree with CMUA that the appropriate reconciliation of D.06-07-030 is that negative indifference amounts will be eligible to offset future positive indifference amounts after September 1, 2006, if any, but will not be eligible to be applied against any other components of the CRS.”⁵

Equally important, the Proposed Decision rightly holds that “in order to maintain indifference, both positive and negative indifference effects must still be tracked, with the negative amounts offsetting positive amounts.”⁶ CMUA agrees, and supports the conclusion that the Proposed Decision’s “clarification, as reflected previously in the proposed language referenced above from PG&E’s Advice

¹ Proposed Decision at 10.

² *Id.* at 12 (emphasis in the original).

³ *Id.* at 14.

⁴ The Proposed Decision also notes that “the only departing load customers affected by PG&E’s Petition are those that are not exempt from a DWR Power Charge.” (Proposed Decision at 6.) CMUA observes that the issue of which municipal departing load customers are “not exempt from a DWR Power Charge” is being addressed in response to another petition to modify D.06-07-030, for which a separate proposed decision was issued for review and comment on April 3, 2007.

⁵ Proposed Decision at 18.

⁶ *Id.* at 19.

Letter 2871-E, is the proper treatment consistent with the principle that bundled customers be kept indifferent with respect to DWR Power costs applicable to DA or DL customers.”⁷

CMUA appreciates the opportunity to comment on the Proposed Decision.

Dated: April 19, 2007

Respectfully submitted,



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⁷ *Id.* at 18. In this context, namely, “DWR Power costs,” CMUA does not object to the proposed finding that “[a]t the expiration of the DWR contract term, the applicability of the indifference requirement would also expire.” (Proposed Decision at 23; Finding of Fact 14.) However, CMUA observes that the requirement for bundled customer “indifference” is also applicable in the context of new utility generation resources (*see, e.g.*, D.04-12-048 at 229; Conclusion of Law 14), and therefore CMUA does not view the proposed finding as being determinative of when the indifference requirement would expire with respect to new utility generation resources, as is currently being addressed in R.06-02-013 (*Order Instituting Rulemaking to Integrate Procurement Policies and Consider Long-Term Procurement Plans*).

CERTIFICATE OF SERVICE

I certify that the following is true and correct:

On April 19, 2007, I caused to be served an electronic copy of the attached:

**Comments Of The California Municipal Utilities Association
On The Proposed Decision Of Administrative Law Judge Pulsifer
In Response To Pacific Gas And Electric Company's
Petition To Modify D.06-07-030**

on all known parties to R.02-01-011, or their attorneys of record, for whom an e-mail address has been provided. I served a copy of the document on those without e-mail addresses by mailing the document by first-class mail addressed as follows:

See attached service list

Executed this 19th day of July, 2007, at Sacramento, California.

A handwritten signature in black ink, appearing to read "Vicki Ferguson", with a long horizontal flourish extending to the right.

Vicki Ferguson

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Proceeding: R0201011 - PUC - DIRECT ACCESS
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